

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 1-10-2020

UNITED STATES OF AMERICA

- against -

17cr137 (JGK)

ASIM HAMEEDI ET AL.,

ORDER

Defendants.

JOHN G. KOELTL, District Judge:

The Court unfortunately and reluctantly must adjourn the three sentences in this case scheduled for January 14, 2020.

First, there is a plain gap in the record. The parties agree that a defendant can only be required to pay forfeiture for the amounts that he personally acquired. See Honeycutt v. United States, 137 S. Ct. 1626, 1630-33 (2017). With respect to Asim Hameedi, the Government contends that this amount should include the entire alleged gross proceeds of the Medicare fraud, namely \$6,871,176 that was obtained by CMA through Asim Hameedi's alleged control over that entity. The defendant Asim Hameedi disputes that the Government has proved by a preponderance of the evidence that Asim Hameedi "so extensively controls the corporation and its assets that money paid to the corporation was effectively under the control of the individual." United States v. Peters, 732 F.3d 93, 103-04 (2d Cir. 2013) (internal citation and alterations omitted). This is a fact-intensive inquiry. See id.

Given the factual dispute, there are several alternatives. The Court can hold a Fatico hearing or the parties can attempt to reach some stipulated agreement with respect to the amount of the forfeiture or any necessary facts from which the Court could make the determination as to forfeiture with respect to Asim Hameedi. However, it is unclear whether the parties could reach a stipulation of facts that would be sufficiently comprehensive for the Court to resolve the issue of forfeiture under Peters without a Fatico hearing. The Court notes that this dispute with respect to forfeiture affects only Asim Hameedi because the parties have come to agreement about forfeiture for the defendants Fawad Hameedi and Arif Hameedi.

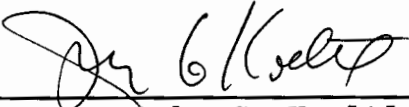
The parties should advise the Court of their decision by **January 14, 2020.**

Second, the Court acknowledges the request by Fawad Hameedi for an adjournment of his sentencing for at least 45 days. That request is moot until the issue of forfeiture with respect to Asim Hameedi is resolved. Forfeiture must be decided at the time of sentence and the Court prefers to keep the three sentences together.

Finally, the sentencing date for Desiree Scott is adjourned until a time to be fixed by the Court after the Court has set a sentencing date for the remaining defendants.

SO ORDERED.

**Dated: New York, New York
January 10, 2020**



**John G. Koeltl
United States District Judge**